HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO.23455 OF 2006

Between:

Syed Taruj Ahmed
. . .Petitioner

AND

The Union of India and another
. . .Respondents

:: ORDER ::

Counsel for the Petitioner : Shri L.Ravichander

Counsel for Respondent No.1 : Shri A.Rajashekar Reddy

10th November, 2006

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PER G.S.SINGHVI, CJ

This is a petition for striking down Section 13(3) of the Consumer Protection Act, 1986 and for issue of a mandamus to District Consumer Disputes Redressal Forum-I, Hyderabad (for short 'the District Forum') to reconsider order dated 19.5.2006 passed in Consumer Case No.1053 of 2005.

Respondent No.2 – Sri Mohammed Ishaq filed a complaint under Section 12 of the Act for issue of a direction to the opposite parties (including the petitioner) to pay Rs.30,000/- with interest at the rate of 24%. In the complaint, respondent No.2 averred as under:

i) that he had deposited Rs.30,000/- with opposite party No.1 on 24.4.1998 for a period of 25 months under monthly interest payment scheme vide F.D.R No.084063;

ii) that the opposite parties paid monthly interest for some time and then stopped the payment, and

iii) that the FDR matured on 24.5.2000, but the opposite parties did not pay the amount.

After issuing notice to the opposite parties, which are shown to have not appeared to contest the complaint despite due service of notice, the District Forum passed order dated 19.5.2006 for payment of Rs.30,000/- to the complainant with interest at the rate of 12% per

annum from 21.4.2000 till the date of realization along with costs of Rs.1,000/-.

Soon thereafter, respondent No.2 filed Execution Application No.101 of 2006 for implementation of order dated 19.5.2006 passed in C.C.No.1053 of 2005.

The petitioner has challenged the vires of Section 13(3) of the Act on the ground that the procedure prescribed therein is wholly arbitrary. He has also assailed order dated 19.5.2006 on the ground of violation of the rules of natural justice.

Shri L.Ravichander, learned counsel for the petitioner argued that the order passed by the District Forum is liable to be declared as nullity because notice of the complaint filed by respondent No.2 had not been served on his client.

In the context of the aforementioned submission of the learned counsel, it is sufficient to observe that if the petitioner had not been served with the notice issued by the District Forum, then appropriate course open for him is to file an application for recall of order dated 19.05.2006 by claiming that the same is nullity. Since the petitioner has not adopted that course, we decline to entertain his prayer and dismiss the writ petition with liberty to him to file application before the District Forum for recall of order dated 19.05.2006. We hope that if such an application is filed, the District Forum will scrutinize the record and pass appropriate order after hearing the counsel for the parties.

As a sequel to dismissal of the main petition, W.P.M.P.No.29877 of 2006 filed by the petitioner for interim relief is

also dismissed.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

Date: 10.11.2006

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